

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-CV-22538-ALTMAN/REID

DOMINIK KARNAS, *et al.*,

Plaintiffs,

v.

MARK CUBAN, *et al.*,

Defendants.

**DEFENDANTS' UNOPPOSED MOTION FOR LEAVE TO FILE UNDER SEAL
THE UNREDACTED VERSION OF DEFENDANTS' SUPPLEMENTAL OPPOSITION
TO PLAINTIFFS' MOTION FOR CLASS CERTIFICATION, THE SUPPORTING
DECLARATION OF HARRIS LABEL, AND SUPPORTING EXHIBITS BECAUSE
THEY CONTAIN REFERENCES TO CONFIDENTIAL INFORMATION**

Defendants MARK CUBAN and DALLAS BASKETBALL LIMITED d/b/a DALLAS MAVERICKS, by and through undersigned counsel and pursuant to Southern District of Florida Local Rule 5.4(b)(1), file this Unopposed Motion for Leave to File Under Seal the Unredacted Versions of Defendants' Supplemental Opposition to Plaintiffs' Motion for Class Certification, the Supporting Declaration of Harris Label, *and* Supporting Exhibits Thereto Because They Contain References to Confidential Information (the "Motion" and the "Supplemental Opposition") (hereinafter the "Motion to Seal"). As grounds therefor, Defendants state as follows:

1. Contemporaneously herewith, Defendants will be filing (i) a Supplemental Opposition to Plaintiffs' Motion, (ii) the supporting Declaration of Harris Label, and (iii) Exhibits in support thereof (collectively, the "Confidential Filings"). The Confidential Filings contain or will contain references to information that has either been produced by third parties as confidential

or designated by either side as Confidential under the Stipulated Protective Order entered by Magistrate Judge Reid on December 21, 2022. [ECF No. 65].¹

2. Therefore, for filing purposes, Defendants have redacted or will redact from the Confidential Filings the information the parties' designated as Confidential and that is covered by the Stipulated Protective Order. *See* S.D. Fla. L.R. 5.4(b)(1); S.D. Fla. CM/ECF Rule 9B.

3. The at-issue protected-as-Confidential information consists of certain Voyager customer data derived from access to Voyager's customer database, as well as data from Named Plaintiffs' user accounts. For example, as set forth in further detail in the Declaration of Harris Label, Voyager has granted access to their customer database, enabling Defendants to input coding queries to obtain data and information concerning Voyager's user activity.

4. While the redactions are and will be limited only to specific user data, and most of the Confidential Filings will not be redacted, Defendants seek permission to file unredacted versions of the Confidential Filings under seal so that this Court is fully informed and has before it all relevant Confidential information prior to ruling on the Motion.²

5. The proposed duration of the requested sealing is for/until the later of (i) the parties consenting to unsealing of the information designated as Confidential, or (ii) an unsealing of any of the information designated as Confidential pursuant to the terms of the Stipulated Protective Order.

6. Local Rule 5.4(b)(1) states that a party who wants to file documents and information under seal must file and serve electronically a motion seeking permission to file under

¹ Various documents, or portions thereof, produced to date have been designated as Confidential.

² Pursuant to Paragraphs 6(e) and 7(d) of the Stipulated Protective Order, the "Court and any Court staff and administrative personnel" may view material designated as Confidential and Highly Confidential. ECF No. 65 at 7-9.

seal. Such a motion must set forth the factual and legal basis for the requested sealing and describe with as much particularity as possible the documents and information to be sealed. *See* S.D. Fla. L.R. 5.4(b)(1).³

7. Where, as here, a party files a motion and other legal documents that need to include references to protected confidential information and those filings are the subject of a Local Rule 5.4(b)(1) motion to file under seal, all of the content sought to be filed under seal must be redacted until the Court has an opportunity to rule on the motion to seal. *See* S.D. Fla. L.R. 5.4(b)(1); S.D. Fla. CM/ECF Rule 9B.

8. Defendants' instant Motion to Seal and the redacted Confidential Filings are all in full compliance with Local Rule 5.4(b)(1) and CM/ECF Rule 9B.

WHEREFORE, Defendants MARK CUBAN and DALLAS BASKETBALL LIMITED d/b/a DALLAS MAVERICKS respectfully request that the Court *grant* this Unopposed Motion for Leave to File Under Seal and *permit* Defendants to file under seal the unredacted versions of the Confidential Filings.

³ However, a motion to file under seal cannot attach or reveal the specific "content of the proposed sealed material." *Id.* Additionally, the material to be sealed "shall not be filed unless the Court grants the motion to file under seal." *Id.*; *see* S.D. Fla. CM/ECF Rule 9A ("The proposed sealed material shall not be filed unless the Court grants the motion to file under seal.").

CERTIFICATE OF GOOD-FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3)(A), I hereby certify that counsel for the movants/Defendants engaged with Plaintiffs' counsel in a good faith effort to resolve the issues raised in this Motion for Leave to File Under Seal. Specifically, on October 31, 2024, Defendants emailed Plaintiffs' counsel to set a time for a telephone call to discuss the relief requested in this Motion; Plaintiffs' counsel responded by email that Plaintiffs do not object to the relief set forth herein and thus consent to Defendants' request.

Respectfully submitted this 31st day of October 2024.

/s/ Christopher E. Knight

CHRISTOPHER E. KNIGHT, ESQ.

Fla. Bar No. 607363

Email: cknight@fowler-white.com

ESTHER E. GALICIA, ESQ.

Fla. Bar No. 510459

Email: egalicia@fowler-white.com

ALEXANDRA L. TIFFORD, ESQ.

Fla. Bar No. 0178624

Email: atifford@fowler-white.com

FOWLER WHITE BURNETT, P.A.

Brickell Arch, Fourteenth Floor

1395 Brickell Avenue

Miami, Florida 33131

Telephone: (305) 789-9200

Facsimile: (305) 789-9201

-and-

PAUL C. HUCK, JR., ESQ.

Fla. Bar No. 0968358

Email: paul@lawsonhuckgonzalez.com

LAWSON HUCK GONZALEZ, PLLC

334 Minorca Avenue

Coral Gables, Florida 33134

Telephone: (850) 825-4334

-and-

STEPHEN A. BEST, ESQ.

Pro Hac Vice

Email: sbest@brownrudnick.com

RACHEL O. WOLKINSON, ESQ.

Pro Hac Vice

Email: rwolkinson@brownrudnick.com

DANIEL L. SACHS, ESQ.

Pro Hac Vice

Email: dsachs@brownrudnick.com

BROWN RUDNICK LLP

601 Thirteenth Street NW Suite 600

Washington, DC 20005

Telephone (202) 536-1755

-and-

JONATHAN D. WHITE, ESQ.

Pro Hac Vice

Email: jwhite@brownrudnick.com

BROWN RUDNICK LLP

7 Times Square

New York, NY 10036

Telephone: (212) 209-4903

*Attorneys for Defendants Mark Cuban
and Dallas Mavericks Limited d/b/a
Dallas Mavericks*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 31, 2024, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF. I ALSO CERTIFY that the foregoing document is being served this day on all counsel of record via the Court's CM/ECF which will send notification of such filing to all attorneys of record.

Case No. 22-CV-22538-ALTMAN/REID

/s/ Christopher E. Knight

CHRISTOPHER E. KNIGHT, ESQ.

Fla. Bar No. 607363

Email: cknight@fowler-white.com